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The present Office Action fails to mention any claim element. The present Office Action fails to point to any particular element in Chan. Accordingly, the present Office Action fails to identify in the written record the correlations being relied on between Chan '599 and the claims being rejected. As a consequence, the rejections fail to demonstrate compliance with MPEP §2131 (to support an anticipation rejection, every claim element must be taught or inherent in a single prior art reference). Compliance with the MPEP is required.

Chan '599 fails to mention "kick amplitude" or "write current" or any cognizable synonyms thereof. Perforce, then, Chan '599 cannot teach the claims, much less establishing the write current or kick amplitude for each head for each disk portion to establish an overwrite signal-to-noise ratio to be within a desired range as required by, e.g., Claim 1.

It appears to be the point of Chan '599 in the portions identified in the Office Action to generate and display performance data for a drive, see, e.g., Chan col. 2, lines 6-9. Specifically, Chan outputs an indication as to whether a center stripe in a sector has been successfully read, and also as to whether each offset stripe from the center stripe has been successfully read, col. 2, lines 13-18 and explicated in greater detail in the relied-upon portions of columns 4 and 6. Chan does this to allow a person to analyze the effects of offset track writing to consider squeeze effects of offset track writing and thereby diagnose and correct problems with the head, col. 2, lines 40-46. It appears that Chan believes such offset track writing to be due to unnamed "irregularities" which causes "mistregistration", col. 3, lines 55-65, apparently implicating head misalignment but *not touching on write current at all*, much less on the present claims.

The comments above apply *mutatis mutandis* to independent Claims 7, 12, and 16.

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The Office Action fails to mention, as do the relied-upon portions of Chan, the limitations of dependent Claims 2, 15, and 17 (establishing both a write current and a kick amplitude) rendering the claims patentable.

The Office Action fails to mention, as do the relied-upon portions of Chan, the limitations of dependent Claim 3 (the desired range is approximately -22db to -24 db) and dependent Claims 9 and 18 (kick amplitude and write current establish an overwrite signal-to-noise ratio within a desired range), rendering these claims patentable.

The Office Action fails to mention, as do the relied-upon portions of Chan, the limitations of dependent Claims 4 and 8 and independent Claims 7 and 16 (accessing a table correlating write current and/or kick amplitude to disk locations), rendering these claims patentable.

The Office Action fails to mention, as do the relied-upon portions of Chan, the limitations of dependent Claims 5, 10, and 19 (dynamically varying write currents and/or kick amplitudes), rendering these claims patentable.

The Office Action fails to mention, as do the relied-upon portions of Chan, the limitations of dependent Claims 6, 11, and 20 (the write current and kick amplitudes are varied as a function of sensed temperature), rendering these claims patentable.

The comments above regarding temperature variation apply *mutatis mutandis* to dependent Claims 13 and 14.

The Office Action fails to mention, as do the relied-upon portions of Chan, the limitations of dependent Claims 21-24 (the write current and kick amplitudes are varied using an equation having a slope

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value, with the slope value being a first value when temperature is above a threshold and a second value when temperature is below the threshold), rendering these claims patentable.

Indefiniteness Rejections

With respect to the indefiniteness rejections, the examiner has declared that "plural disk portions" as recited in independent Claims 1, 7, 12, and 16, "being associated" as recited in Claim 1, and "which can be" as recited in Claim 12, "are not clear and do not define structure of the claimed disk."

To inform analysis, resort will now be made to the MPEP, specifically, MPEP 2173.02 ("Clarity and Precision"):

"In reviewing a claim for compliance with 35 U.S.C. 112, second paragraph, the examiner must consider the claim as a whole to determine whether the claim apprises one of ordinary skill in the art of its scope and, therefore, serves the notice function required by 35 U.S.C. 112, second paragraph, by providing clear warning to others as to what constitutes infringement of the patent... See also Metabolite Labs., Inc. v. Lab. Corp. of Am. Holdings, 370 F.3d 1354, 1366, 71 USPQ2d 1081, 1089 (Fed.Cir. 2004) ("The requirement to 'distinctly' claim means that the claim must have a meaning discernible to one of ordinary skill in the art when construed according to correct principles. Only when a claim remains insolubly ambiguous without a discernible meaning after all reasonable attempts at construction must a court declare it indefinite.")...."If upon review of a claim in its entirety, the examiner concludes that a rejection under 35 U.S.C. 112, second paragraph, is appropriate, such a rejection should be made and an analysis as to why the phrase(s) used in the claim is "vague and indefinite" should be included in the Office action."

Plainly, the present rejections fail to comply with the MPEP because no analysis whatsoever appears in the Office Action related to definiteness. The examiner merely decrees that certain phrases offend Section 112 without complying with the MPEP in explaining why he believes the skilled artisan would find the

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phrases "insolubly ambiguous without a discernible meaning after all reasonable attempts at construction".

The rejections fall.

In addition to failing to comply with the MPEP, the rejected phrases are, in fact, quite clear. "Plural disk portions" means more than one portion of a disk. Simple as that. There is nothing at all that is "insolubly ambiguous" about this recitation.

The phrase "being associated" appears in Claim 1 between "write current and/or kick amplitude" and "with the write element". The plain and ordinary meaning thus is that an explicitly and precisely articulated parameter or parameters are definitely and positively associated with an explicitly and positively defined claim element. This is a clear and precise recitation of a relationship, albeit broad; however, "breadth is not indefiniteness", MPEP 2173.04.


The phrase "which can be" appears in Claim 12 appears between "disk portion" and "written to by the head". In other words, the claim recites a disk portion "which can be" written to by the write head. A clearer and more precise recitation of the relationship between two explicitly and positively articulated claim elements is difficult to imagine. Even more difficult to imagine is any credible argument that the recitation is "insolubly ambiguous without a discernible meaning after all reasonable attempts at construction".

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